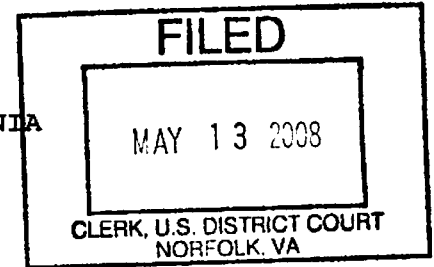


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



RONALD A. PEGUESE, #197617,

Petitioner,

v.

2:07CV285

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions on March 26, 2002, in the Circuit Court of Henrico County, Virginia, for one count of conspiracy, six counts of obtaining money by false pretenses, and seven counts of forgery, as a result of which he was sentenced to serve nine years in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge filed his report recommending dismissal of the petition on March 24, 2008. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court received from petitioner on April 7, 2008, objections to the report.

The Court, having reviewed the record and examined the objections filed by the petitioner and having made de novo findings with

respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed March 24, 2008. It is, therefore, ORDERED that the petition be DENIED and DISMISSED on the merits and that judgment be entered in respondent's favor.

To the extent that petitioner objects to the Magistrate Judge's findings and conclusions, the objections are without merit. Petitioner's objections merely reiterate the claims raised in the petition.

Once again, petitioner relies on Wolff v. McDonnell, 418 U.S. 539 (1974), which established that prisoners, in disciplinary settings, have certain rights which prison authorities must observe. Among them is the right to notice, the right to appear at a hearing,, the right to have the assistance of an advisor at a hearing, and the right to a written opinion. In addition, they must have the right to appeal within the prison system.

Petitioner's rights were fully respected: (1) he had notice of the disciplinary hearing, (2) he had an advisor, (3) he attended the hearing, (4) he had the opportunity to confront some of the witnesses against him, and (5) he was given a written statement of the hearing officer's findings. Furthermore, the hearing was recorded. On appeal, the hearing officer's findings were affirmed by the Warden. Petitioner then appealed to the Regional Director, who affirmed the Warden's findings, discussing in detail the evidence presented in support of the charge against petitioner, including the testimony of confidential witnesses. Contrary to petitioner's conclusions, the Regional Director was not limited to deciding the appeal within the limits of the hearing

officer's statement. The Regional Director was entitled to view the findings in light of all the evidence presented in addition to the hearing officer's conclusions. Wolff gives prisoners certain rights, but it does not diminish the role of the hearing officer, the Warden, or the Regional Director. The Supreme Court of Virginia was correct when it dismissed petitioner's appeal as "frivolous."

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and to counsel of record for the respondent.


UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

May 12, 2008